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ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 23rd May, 1957

S.R.O. 1843.—In pursuance of the provisions of sub-section (1) of section 86 of the Representation of the People Act, 1951, the Election Commission hereby publishes a copy of the Election Petition No. 351 of 1957, presented to the Commission on the 27th April, 1957 under section 81 of the said Act, by Shri Sitaram Khemka, resident of Mohalla Chowk, Monghyr (Bihar) calling in question the election to the House of the People from the Phulpur constituency of that House of Shri Jawahar Lal Nehru, Prime Minister of India, New Delhi and Shri Masuriya Din, 135, Katra, Allahabad.

Presented to me by Shri Sitaram Khemka whose signature has been obtained in the margin and attested as having been signed before me this the twenty seventh day of April. One Thousand Nine Hundred and Fifty Seven.

(Sd.) SITARAM KHEMKA.

(Sd.) DIN DAYAL,

Attested.

Under Secretary,

(Sd.) DIN DAYAL, 27-4-57.

Election Commission, India,

27-4-57.

BEFORE THE SECRETARY TO THE ELECTION COMMISSIONER, NEW DELHI

ELECTION PETITION No. 351 OF 1957

Re: Election to the Lok Sabha at Delhi from 334, Phulpur Parliamentary Constituency of Allahabad Districts in the State of Uttar Pradesh.

(Under Section 81 of the Representations of the People Act, 1951).

Sri Sitaram Khemka, resident of Mohalla Chowk Monghyr (Bihar)—
Petitioner.

Versus

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|---|-----------------------|
| 1. Sri Jawahar Lal Nehru, Prime Minister of India, New Delhi. | } <i>Respondents.</i> |
| 2. Sri Masuriya Din, 135, Katra, Allahabad. | |

The Petitioner begs to state as follows:—

1. That the petitioner was a candidate at the last general Elections, to the Lok Sabha at Delhi from the Phulpur Parliamentary Constituency situate in the State of Uttar Pradesh.

2. That the respondents 1 and 2 were the duly nominated candidates at the foresaid elections.

3. That the respondent No. 1 is the candidate, who has been declared to be returned to the Lok Sabha at Delhi from the General Seat.

4. That respondent No. 2 is the Scheduled Caste candidate who has been declared to be returned at the said election from reserved seat.

5. The elections of Sri Jawaharlal Nehru, Respondent No. 1 and of Sri Masuriya Din Respondent No. 2 are void and illegal and should be declared void on the grounds that:

- (a) Corrupt practices were committed by the returned candidates or their election agents or by other persons with the consent of the returned candidates or their election agents, and
- (b) The result of the election, in so far as it concerned the returned candidates was materially affected by (i) corrupt practices committed in the interest of the returned candidates by persons other than the candidates or their election agents or persons acting with the consent of such candidates or their election agents and (ii) by non-compliance with the provisions of the Constitution or of the Representation of the Peoples Act, 1951 or of Rules and/or orders made under the said Act.
- (c) Undue influence was exercised on the voters or the electors and there was direct and indirect interference or attempt to interfere on the part of the said candidates or their election agents and/or of other persons with the free exercise of electoral right.
- (d) There was also hiring or procuring of vehicles or vessels by the said candidates or by their agents or by other persons for the conveyance of the electors to and from polling station or places fixed under Section 29, sub-section (1) for the poll.
- (e) There was incurring or authorising of expenditure in contravention of Section 77 of Representation of People Act, 1951.
- (f) There was also obtaining or abetting or attempting to obtain or procure by a candidate Respondent No. 1 or his agent or, by any other person, any assistance for the furtherance of the prospects of the said candidate's election, from persons in the service of the Government and belonging to any of the following classes:—
 - (i) Gazetted Officers;
 - (ii) Members of the armed forces and Police.
 - (iii) Revenue Officers as mentioned in Section 123(7)
 - (iv) Excise Officers.

6. Particulars are set out hereunder and in the schedules annexed to this petition. The said schedules should be treated as part of this petition.

PARTICULARS

- I. That respondent No. 1 fought the said Election as the Prime Minister of India, taking undue advantage of all the privileges and advantages attached to that office, and that this fact has very seriously and materially affected the results of the said election, and taking advantage of high office which respondent No. 1 holds, the police and C.I.D. were employed to place impediments in the way of the petitioner to disable him from conducting his election campaign.
(Schedule A Items 1, 2 and 3 of the list of particulars).
- II. That the Respondent No. 1 and his election Agent and other Agents used Government vehicle and Government Officers in his Election campaign.
(Schedule B Items 1 and 2 of the list of particulars).
- III. That the Respondents Nos. 1 and 2 and their Election Agents and other Agents employed Government Servants to canvass and support for him in the said election.
(Schedule C Items 1, 2, 3 of the list of particulars).

- IV. That respondent No. 1 as Prime Minister of India presided over the meetings of the Cabinet of Indian Government, which denied the use of All India Radio to any other political party or individual candidates in making known their election programmes to the public except members of the Congress party to which the respondent No. 1 belongs and almost all the election speeches of Respondent No. 1 were broadcasted by the All India Radio and this has very materially affected the results of the election.

(Schedule D, Item 1 of the list of particulars).

- V. That respondents Nos. 1 and 2, their Election Agents and other Agents made use of Government money and Government servants in his election campaign, including holding of Congress election meetings and making arrangement for conveyance.

(Schedule E, Item 2 of the list of particulars).

- VI. That respondent No. 2 is disqualified for being chosen as a member of the Lok Sabha in as much as he has a share and interest in the execution of work and performances of services undertaken by the Central and State Governments.

(Schedule F, Item 1 of the list of particulars).

- VII. That the supporters of Respondents Nos. 1 and 2, their Election Agents and other Agents arranged for conveyance for voters to polling stations and back.

(Schedule G, Item 1 of the list of particulars).

- VIII. That the respondents Nos. 1 and 2, their Election Agents and other Agents and his supporters utilised the administrative machinery of the Government further the ends of their electoral success at the said election.

(Schedule H, Items 1 and 2 of the list of particulars).

- IX. That the Communication Ministry of the Government of India which is a component of the Government of India Ministry at Delhi over which respondent No. 1 presides as Prime Minister of India and his colleagues issued a postal stamp with Congress party election symbol printed on it, which was a misuse of Government machinery for party ends, and has materially affected the results of the election.

(Schedule I, Items 1 and 2 of the list of particulars).

- X. That the respondents Nos. 1 and 2, their Election Agents and other Agents held out inducement to those, who promised support to Congress party in the said election and at the same time threatened those with dire consequences, who dared to oppose the Congress candidates at the said election. These promises and threats were held out particularly to the Minority Communities.

(Schedules J, K, L, Items 1 and 2 of the list of particulars).

- XI. That the respondent No. 1 has submitted a wrong return of election expenses, he or his election agent has incurred and/or authorised expenses much beyond the limit of Rs. 35,000 prescribed under the Election Rules, 1956, and that much more money has been spent over his election that is given out in the Return of expenses admitted by him materially affected the election result.

- XII. That the respondent No. 1 made known his views on the question of Cow protection at a public meeting held on 6th February, 1957 at the K. P. College Grounds, but denied the same freedom of expression on the same issue by the petitioner by effecting his arrest through the police, which fact and event materially altered and affected the results of the election.

(Schedule M, Items 1, 2, 3, 4, 5, 6, 7 and 8 of the list of particulars).

XIII. That the Election Agents and other Agents of respondents Nos. 1 and 2 made use of posters, pamphlets, notices etc. and wrote slogans on the walls, which amounted to threat certain minority communities that in case they failed to support the Congress party and the candidate it has set up, they would have to leave this country and support to the Congress was vital to their existance.

XIV. That the respondent No. 1 and the Congress party to which he belongs used coercive measures, possible to be taken by only those who yield governmental power, in collecting fabulous amounts from different persons and companies including a sum of Rs. 50 lakhs from the Tatas, and other business magnates and using the sums so collected for bribing the electorate consolidating the party and this amounts to a major corrupt practice.

These amounts were collected by affecting amendments in the company and Income-tax law and by making these donations tax, free, thus the depriving public exchequer at least to the extent of the donations. These amendments in the law were *ultra vires* unwarranted.

XV. That during polling various centres in 334 Phulpur parliamentary Constituency, those engaged as Presiding Officers acted in contra-vention of the instruments given them and helped in securing votes for respondent Nos. 1 and 2 which ought to have been rejected.

(Schedule M, Items 1, 2, 3, 4, 5 and 6 of the list of particulars).

Effected the results non-compliance of Act and Rules and Constitution.

XVI. That the petitioner has reliably come to learn that at a very large number of polling centres, the staff issuing ballot papers noted the serial numbers of the ballot papers against the names of the voters in the electoral roll supplied to them, which fact went to a long way to nullify the secrecy of the ballot box. That the truth of this fact can only be established to the hilt, when the petitioner is given an opportunity to inspect the necessary papers by the Election Tribunal.

XVII. That a large number of persons and institutions were granted gifts and grant and just before the election to secure their support for the respondents through the Government U. P. which is run by party.

XVIII. That respondent No. 1 used several Government and aided institutions for his canvassing for example.

(Harijan Board, Social Welfare Boards, Women Welfare Boards, Kamla Vidyalaya, Crosthwaite Girls College, Mahila Tilak Maha Vidyalaya, Moti Lal Memorial Higher Secondary School etc).

XIX. That Government official like Shrimati Indra Gandhi, Home Controller of the Prime Minister and Shri Raina the District Magistrate and all the subordinate officials under actually participated in the canvassing of respondent Nos. 1 and 2 at their instance and at least with their consent and as such has materially effected the result of election.

XX. That bogus votes were casted. No agency was employed for the identification of the voters. This casting of votes has materially effected. (Mahadeo Prasad and others will beg this out).

7. That the petitioner was denied a copy of the electoral roll free of cost while the respondents Nos. 1 and 2 given preferential treatment and as such they were supplied the same free of cost through their political parties that this preferential treatment was unwarranted and is no where provided in the election rules.

8. That the corrupt practices and non-compliance are with and violations of Representation of Peoples Act 1951 Rules and the Constitution which have been violated have materially effected the result of the election.

9. That the Petitioner was not allowed to be present at and asked to quit the New Jhusi polling station on 28th February 1957 accompanied by a threat from the Presiding Officer that in the event of his non-compliance with such order Police force would be used against him and thereby the petitioner was deprived of his right to the present and watch his interest during the conduct of election

at the said polling station and thereby election has been materially affected. The petitioner was not even allowed to appoint an election agent.

10. that the conduct of the election has been materially affected in manner favourably to respondent Nos. 1 and 2 and prejudiced to the petitioner by a Series of corrupt practices and violation of Representation of People's Act and Rules thereunder including canvassing within 100 yards of polling Station allowing the presence of within the polling station of other persons than the authorised number of election agents and persons likely to influence the voters and the connivance of this and other such corrupt practice by Presiding Officers.

11. that the rules framed under the Representative of the People (Conduct of Election and Election Petition) Rules 1956 are *ultra vires* of the Constitution of India.

PRAYER

It is, therefore, prayed that the election Respondent Nos. 1 and 2 who are the returned candidates to the Lok Sabha at Delhi be declared void, illegal and against law and by practising corrupt practices.

It is further prayed that the petitioner who secured highest number of votes next to respondent No. 1 in the election for the general seat to the Lok Sabha from 334 Phulpur Parliamentary Constituency be declared as duly elected.

SITARAM KHEMKA,
Petitioner.

Verification

I, Sitaram Khemka, the petitioner above named verify that the contents of this petition in paras 1 to 4 are true to my knowledge and para 5 and the grounds thereunder are true to my belief para 6 and particular thereunder I to XX are true to my information received by me which I believe to be true paras 7 to 11 are also true to my belief and that I have appended my signature on this petition at New Delhi on this 27th day of April 1957.

Sd/- SITARAM KHEMKA
Petitioner.

SCHEDULE 'A'

Item No. 1.—That on 28th January 1957, Shri L. G. Thatte, General Secretary of the All India Hindu Raj Party who wanted to file his nomination paper as a candidate to that of the said Phulpur Parliamentary Constituency started from Gorakhpur, but was unable to reach Allahabad for the purpose as his railway compartment was detached at the Bhatni Station under suspicious circumstances and with the sole object that he may not be able to file his nomination paper.

Item No. 2.—That respondent No. 1 got Shri L. G. Thatte arrested through the police and he was subsequently released on 7th February 1957. That this was done with a view to cripple him petitioner and deny him opportunity to place before the public his election programme of the petitioner in relation to Anti-Cow Slaughter movement at a time, when respondent No. 1 was freely expressing his opinion with the assistance of the All India Radio.

Item No. 3.—That on arrival at Allahabad, the petitioner stayed with Pandit Shridhar Shastri in Mohalla Bahadurganj.

That having come to know that the petitioner has filed nomination to oppose respondent No. 1, the said house of Pandit Shridhar Shastri was surrounded by C.I.D. and Police who urged Shastriji to turn the petitioner out of his house on the point of threat in case he permitted the petitioner to stay in his house, his father would be taken into custody.

That as a result of these manoeuvrings by the police, and the C.I.D. and the petitioner had to leave his house remain without shelter for several days at Allahabad.

SCHEDULE B.

Item No. 1.—That respondent No. 1 paid several visits to Allahabad at the time of election and on each occasion he came to this place in a Government plane and that the plane was piloted by the members of Indian Air Force.

Item No. 2.—That on every occasion when respondent No. 1 came to Allahabad in the months of January, February and March 1957, in his election campaign and went on tour in his Constituency, he was accompanied by a large number of high government officials, each one of whom used government vehicles and followed by a large number of police and other administrative officers.

SCHEDULE C.

Item No. 1.—That all his election meetings, held on the eve of polling in his constituency at Handia, Phulpur, Soraon, Sirathu, and Manjhanpur respondent No. 1 and his supporters employed a large number of government servants in organising these meetings and that this government personnel was not connected in any way with security measures taken for the personal safety of the Prime Minister of India.

Item No. 2.—That the District and P.W.D. authorities gave all possible assistance in making arrangements for the election meetings that were addressed by respondent No. 1 in his constituency, including sitting setting up of loud speakers, sanitation and even construction of rostrums.

Item No. 3.—That the district Inspector of Schools conveyed a meeting of Heads of Educational Institution at Anand Bhavan at which respondent No. 1 was present. Respondent No. 1 used the influence of district Inspector of Schools to canvass for himself.

SCHEDULE D & E.

Item No. 1.—That on 6th February 1957, Respondent No. 1 addressed an election meeting at the K. P. College Grounds and that his speech was broadcasted by All India Radio, Allahabad.

Item No. 2.—That the petitioner could not arrange for any transport as they were requisitioned either by the Government at the time of election or were made over to supporters of respondent No. 1 who wielded undue influence with the authorities in denying transport facilities to the petitioner in his election work.

SCHEDULE F.

Item No. 1.—That the respondent No. 2 is the proprietor and the owner of a printing press at Katra, Allahabad, that respondent No. 2 runs the said printing press for his benefit and is in the approved list of printers to whom government printing work is allotted.

SCHEDULE G.

Item No. 1.—That on the day of polling, the supporters of respondent No. 1 and 2 hired various types of vehicles for the conveyance of voters, which fact was taken note of by a large number of persons including Shri Dharamvir Goswami and Shri Ramadhar.

SCHEDULE H.

Item No. 1.—That in the second week of February 1957, the supporters of respondent No. 1 and 2 led the people, living in Phulpur Tehsil to believe that they are bringing pressure on the District authorities to grant remission in rent, and in fact the Collector of the Allahabad District did issue a notice, dated 19th February 1957 telling people they would be granted remission for on account of the damage caused to Kharif Crop. That there was no special reason for the Collector, Allahabad to issue such a belated notice except to assist the party in power in its election propaganda. That great resentment was expressed at this action of the Collector of indirectly assisting the party in power by Shri Mahanarain Mishra and others in many election meetings, held at Phulpur on the eve of the polling.

Item No. 2.—That the authorities of the District Board at Allahabad withdraw a number of pending cases in the courts, without giving ostensible reasons for the same in order to secure the aid of the accused persons in their election campaign. That the authorities of the District Board were made to take this decision at the instance of the supporters of respondent Nos. 1 and 2.

The President of District Board Shri Sheo Murti Singh being himself a congress candidate for the Assembly in their constituency has used his power and influence to support congress candidates and for Respondent No. 1 through the District officers and teachers who freely canvassed and prepared and distributed

SCHEDULE I

Item No. 1.—That the petitioner was greatly prejudiced on account of the fact that he could not make known his election symbol to his electors to the same extent as the respondent No. 1 and 2 could do by printing congress party election symbol on postal stamps, thereby making use of government property in furtherance of party ends. That the petitioner brought this fact to the notice Shri Saligram Jaiswal, Shri Ram Chandra Ram, Shri Kamala Prasad Mohiley and many others, who promised the petitioner that they would take up the matter with the authorities and see that such subtle methods of Congress propaganda through Governmental agencies would not be allowed in future.

Item No. 2.—That Shri Ramadhar and large number of other persons in his constituency complained to the petitioner that on account of the fact that the Congress party election symbol was printed on postal stamps, therefore it prejudiced the chances of the petitioner's election, as the electorate in his constituency got more used to the Congress party election symbol than the petitioner's election symbol.

SCHEDULE J

Item No. 1.—That Shri Satya Narain Pande and many other informed the petitioner that a number of cases launched by the Allahabad District Board against different persons were unconditionally withdrawn as an inducement to the accused persons that they work for the Congress party.

Item No. 2.—That the supporters for respondent No. 1 and 2 issued a number of posters, pamphlets and notices, which mislead the electorate to the conclusion that they would not be allowed to live if they did not support the Congress party in election Shri Chetram, respondent No. 5 who was himself a contesting candidate in the said election was a victim of such sinister propaganda which heavily told on ignorant and illiterate persons, especially those belonging to the Scheduled caste.

SCHEDULE K

Items:

1. Addressing a meeting at Bharatganj on 17th February 1957 Shrimati Indira Gandhi said that priority would be given to the work of those, who would vote for Congress.

This speech was reported in the issue of the Amrita Patrika dated 18th February 1957, by Shri Parmanand Mishra Staff Reporter of the 'Patrika'.

Similar speeches were delivered by the supporters of respondent No. 1 and 2 at Handia, Phulpur, Soraon, Sirathu and other places. These were heard by Shri Ram Nath Dubey, Shri Chet Ram, Shri Sarwar Hussain, Shri Maha Narain Misra, Shri Bhan Pratap Singh, Shi Ramadhar and many more, who would depose before the Election Tribunal.

SCHEDULE L

1. That Shrimati Indira Gandhi, Shri Dixit and other supporters of respondents 1 and 2 delivered speeches at Handia, Phulpur, Soraon, Sirathu and many times on different dates in which they held out promises to people that the work of only those persons would be done who would support the Congress in election, they also issued notices, pamphlets, posters etc., in which was held out to certain communities that dire consequences, would follow in case they fail to support the Congress.

SCHEDULE M

Item No. 1.—That on 6th February 1957 respondent No. 1 in a speech delivered at the K. P. College grounds said that he considered Cow to be as good an animal as the horse on any other creature. At the same time the petitioner who wanted to take out a peaceful procession in connection with the question of Cow protection was arrested and that the procession was lathi-charged.

Item No. 2.—Shri L. G. Thattc, General Secretary of the All India Hindu Raj Party was also arrested in connection with the opposition to the Anti-Cow slaughter procession and released on 7th February 1957.

Item No. 3.—That Shri Brahmachari Tilaknandji was in the procession taken out 6th February 1957 in the Magh Mela grounds. That the police assaulted him, snatched the cow, which he was taking with him and lastly he was taken into custody and subsequently released.

Item No. 4.—That amongst those who were Lathi-charged in the said procession included Swami Shri Bishwak Senacharji Maharaj and Brahmachari Shri Janki Saranji Maharaj, who received minor injuries too. The procession was led by Shrimati Ansuiya Devi and Shrimati Kamla Devi, Brahmachari Shri Radhey Choudhary and Shri Raja Ram Pande.

Item No. 5. That on the day of polling at Dhinpur, polling station, near Mau Aima, the Presiding Officer was found putting ballot papers, which the voters had placed elsewhere inside the ballot box, against the instruction given to them. That this fact was resented at by Shri Harsh Vardhan Shukla, who was working as a polling agent there. After Shri Harsh Vardhan Shukla brought the fact to the notice of the Presiding officer that he was not entitled to put ballot papers, which the voters dropped elsewhere, inside the ballot box, he was asked by the Presiding officer to leave the Polling Centre forthwith.

Item No. 6.—Shrimati Indira Gandhi held a General meeting in Handia Jamunapur, Phulpur, Sahson, Sorson and other places and used government vehicle. She terrorised in her speeches that if the electorate did not vote for respondent No. 1, Allahabad would be denied all the facilities and developments by the Government. Ram Abhilakh, Mahadeo Jaiswal, Bansilal, and Kedarnath heard these speeches.

Item No. 7.—That the District Magistrate has issued pamphlets in thousand giving promises to the electorate that their rent was going to be remitted. The pamphlet is dated 19th February, 1957 Kedarnath, Satya Narain and Dudhi Singh, Jagannath Singh, Dina Nath and Munni Lal.

Item No. 8.—That the District Magistrate, Allahabad suspended the collection of rent bill on the eve of the election (*vide* Jamavandi of the district).

Item No. 9.—That the District Magistrate, Allahabad along with Panchayat Officer suspended the collection of Panchayat all tax during the month of January, February, March (beginning 1957 *vide* Tax Receipt of Panchayat in possession of the Secretaries of the U.P.)

Item No. 10.—That the licence for Government Food Control Grain Shop was granted to Shri Birju Lal in February 1957 when he promised support to respondent No. 1 and 2. His son was subsequently appointed agent for respondent No. 1. This fact will be proved by Shri Maha Narayan Misra and Shri Lal Bahadur Singh..

Verification

I, Sitaram Khemka, the petitioner do hereby verify that the contents of Schedule A to M have been learnt by me from information which I believe to be true and that I affixed my signature on the list of particulars at New Delhi on the 27th day of April, 1957.

Sd/- SITARAM KHEMKA.

[No. 82/351/57].

By Order,

DIN DAYAL, Under Secy,